



STATE OF HAWAII
DEPARTMENT OF HEALTH
P.O. BOX 3378
HONOLULU, HAWAII 96801-3378

In reply, please refer to:
EMD / CWB

04019PGY.05

DATE: April 8, 2005

NPDES PERMIT NO.: HI S000039

PERMIT RATIONALE: APPLICATION FOR NATIONAL POLLUTANT DISCHARGE
ELIMINATION SYSTEM (NPDES) PERMIT TO DISCHARGE
TO THE WATERS OF THE UNITED STATES

PERMITTEE: DEPARTMENT OF LAND AND NATURAL RESOURCES,
STATE OF HAWAII

PROJECT: MALAE HEIAU RESTORATION, WAILUA RIVER STATE
PARK, KAUAI

PROJECT ADDRESS

Malae Heiau
Wailua, Lihue, Kauai, Hawaii

PERMITTEE MAILING ADDRESS

1151 Punchbowl Street, Room 221
Honolulu, Hawaii 96813-3007
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PERMIT STATUS

On September 15, 2004, the Permittee submitted an NPDES Individual Permit application for coverage of storm water discharges associated with construction activity for the Malae Heiau Restoration, Wailua River State Park, Kauai, Hawaii.

The Department of Health (DOH) reviewed the application and requested by facsimile, dated February 22, 2005, that additional information be submitted to complete the application. The Permittee via their authorized representative, Fukunaga & Associates, Inc. has since submitted additional information, dated March 2, 2005, to complete the application.

The Director of Health (Director) proposes to issue a permit to discharge to the waters of the State and has included in the proposed draft permit those terms and conditions which the Director determined are necessary to carry out the provisions of the Federal Water Pollution Control Act (PL 92-500), Federal Clean Water Act of 1977 (PL 95-217) and Chapter 342D, Hawaii Revised Statutes (HRS).

SCOPE OF THE CONSTRUCTION ACTIVITY AND LOCATION OF THE PROJECT

The Project proposes to improve the existing Malae Heiau at Wailua River State Park, Lihue, Kauai, Hawaii. Improvements include clearing, grubbing, and revegetation around the heiau walls, installing a geotextile fabric layer within the heiau walls, clearing and grubbing for non-heiau boulder relocation, and trimming of existing vegetation.

RECEIVING WATER CLASSIFICATION

The storm water runoff from the project may discharge to the Wailua River State Park as identified in the application. The receiving waters are classified as Class 1, Inland Waters. The objective of Class 1 waters is to remain in their natural state as nearly as possible with an absolute minimum of pollution from any human-caused source. The uses to be protected are all uses compatible with the protection of the ecosystems associated with waters of this class. These waters shall not act as receiving waters for any discharge which has not received the best degree of treatment or control compatible with the criteria established for this class.

OCEAN DISCHARGE CRITERIA

The Director has considered the Ocean Discharge Criteria, established pursuant to Section 403(c) of the Clean Water Act for the discharge of pollutants into the territorial sea, the waters of the contiguous zone, or the oceans. The EPA has promulgated regulations for Ocean Discharge Criteria in 40 Code of Federal Regulations Part 125, Subpart M. Based on current information, the Director has determined that the discharge will not cause degradation to the marine environment.

DESCRIPTION OF THE PROPOSED DISCHARGE

Storm water runoff from the project site may discharge to the Wailua River State Park to the discharge point noted in the application. The construction Best Management Practices (BMPs) Plan includes measures to remove pollutants from the storm water runoff prior to entering the receiving waters through the use of silt fence and silt detention basin.

PERMIT CONDITIONS

The Director has considered the permit conditions to discharge storm water runoff associated with construction activity, established pursuant to the Federal Water Pollution Control Act, Federal Clean Water Act, and the HRS. The Director has determined that the discharge will not cause degradation to the receiving water environment after implementation of BMPs. Therefore, based on current information, the Director proposes to issue a permit.

PROPOSED DETERMINATIONS

Based on the activities proposed, nutrient and toxic parameters are not required. Any non-storm water generated from the construction activities will be contained on-site and will not be discharged into State waters.

The proposed requirements are determined to be applicable to the permit conditions to prevent degradation of the receiving water. These requirements are incorporated into the draft permit as follows:

A. General Requirements

The Permittee shall:

1. Comply with all materials submitted in and with the application, dated September 18, 2004, and additional submittal, received March 2, 2005.
2. Retain a copy of the application, including other related materials, and this permit at the job site or at a nearby field office.
3. Ensure that anyone working under this permit complies with the terms and conditions of this permit.
4. Not cause or contribute to a violation of the basic water quality criteria as specified in Hawaii Administrative Rules (HAR), Chapter 11-54, Section 11-54-4.
5. Take all reasonable steps to minimize or prevent any discharge or disposal of sediments, oil, fuel, pesticides or any other pollutants which will cause or contribute to a violation of this permit or applicable law. Sediments or any other pollutants generated by the construction shall be disposed of in a manner which prevents its entrance into or pollution of any surface or subsurface waters.
6. Design, operate, implement, and maintain the construction site Best Management Practices (BMPs) Plan to ensure that storm water discharges associated with construction activities will not cause or contribute to a violation of applicable State water quality standards.
7. Implement the construction site BMPs Plan, or amendments thereof, as often as needed to improve the quality of storm water discharges or when instructed by the Director of Health (Director).
8. Immediately stop, reduce, or modify construction, or implement new or revised BMPs as needed to stop or prevent a violation of the basic water quality criteria

as specified in HAR, Chapter 11-54, Section 11-54-4.

9. Inspect, at a minimum of once per week, the receiving State waters, storm water runoff and control measures and BMPs practices to detect violations of and conditions which may cause or contribute to a violation of the basic water quality criteria as specified in HAR, Chapter 11-54, Section 11-54-4. (e.g., the permittee shall look at storm water discharges and receiving state waters for turbidity, color, floating oil and grease, floating debris and scum, materials that will settle, substances that will produce taste in the water or detectable off-flavor in fish, and inspect for items that may be toxic or harmful to human or other life.)
10. Review the effectiveness and adequacy of the implemented site-specific BMPs Plan(s) and Sediment and Erosion Control Plan(s) at a minimum of once per week, and update the plan as often as necessary. Any changes(s) to the site-specific BMPs Plans and/or Sediment and Erosion Control Plans or correction(s) to information already on file with the Department of Health (DOH) shall be submitted to the Clean Water Branch (CWB) as such change(s) or correction(s) arises.
11. Submit signed copies of all reports required by this permit to the Director at the following address or as otherwise specified:

Director of Health
Clean Water Branch
Environmental Management Division
Department of Health
P.O. Box 3378
Honolulu, HI 96801-3378
12. Include the following certification statement and signature on each submittal in accordance with HAR, Chapter 11-55, Section 11-55-07(b):

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine or imprisonment for knowing violations."
13. Include the NPDES permit number (HI S000039) on each submittal. Failure to provide the assigned NPDES permit number for this facility on future correspondence or submittals may be a basis for delay of the processing of the

document(s).

B. Reporting Requirements

The Permittee shall:

1. Submit the following site-specific information to the CWB at least 30 days before the start of construction activities:
 - a. Any general contractor's information which was not identified in the application. The information must include the general contractor's legal name, address (location where papers can be hand-delivered), contact person and title, telephone and fax numbers;
 - b. An updated construction timetable before the start of construction activities which includes at a minimum: dates when the general contractor will begin and end the site disturbance; dates when erosion/sediment control measures will be implemented and removed; dates when major construction activities begin and end.
 - c. Location of equipment storage/maintenance area with details of pollution control measures shown on the Erosion Control drawings.
 - d. Construction drawings approved by the State of Hawaii, Department of Land and Natural Resources.

All related concerns and/or comments shall be properly addressed to the CWB's satisfaction.

2. Complete and submit the enclosed Solid Waste Disclosure Form for Construction Sites to the Office of Solid Waste Management as specified on the form.
3. Immediately notify the Director of the incident and identify the pollutant(s) source(s) and the proposed and implemented control or mitigative measures as required in section 16 of DOH "Standard NPDES Permit Conditions," dated December 31, 2002.
4. Submit any changes to information on file with the CWB as soon as changes arise. The Permittee shall properly address all related concerns and/or comments to the CWB's satisfaction.
5. Notify the CWB upon termination of the discharge activities pursuant to HAR, Chapter 11-55, Section 11-55-18.

C. Special Requirements

The Permittee shall:

1. The Permittee shall:
 - a. Provide adequate BMP's for temporary storage of any soils, or excavated materials.
 - b. Not discharge any non-storm water associated with the construction activities into State waters unless authorized by an appropriate permit, license, or approval.
 - c. Refrain from performing any work during heavy rainstorms.
 - d. Dispose of any waste at a State and/or County approved landfill site.
2. The following special conditions apply to all land disturbance work conducted under this permit:
 - a. Construction Management Techniques
 - (1) Clearing and grubbing shall be held to the minimum necessary for grading and equipment operation.
 - (2) Construction shall be sequenced to minimize the exposure time of the cleared surface area.
 - (3) Construction shall be staged or phased for large projects. Areas of one phase shall be stabilized before another phase is initiated. Stabilization shall be accomplished by temporarily or permanently protecting the disturbed soil surface from rainfall impacts and runoff.
 - (4) Erosion and sediment control measures shall be in place and functional before earth moving operations begin. These measures shall be properly constructed and maintained throughout the construction period.
 - (5) All control measures shall be checked and repaired as necessary, for example, weekly in dry periods and within 24 hours after any rainfall of 0.5 inches or greater within a 24-hour period. During prolonged rainfall, daily checking is necessary. The permittee

shall maintain records of checks and repairs.

- (6) The permittee shall maintain records of the duration and estimated volume of storm water discharge(s).
- (7) A specific individual shall be designated to be responsible for erosion and sediment controls on each project site.

b. Vegetation Controls

- (1) Pre-construction vegetative ground cover shall not be destroyed, removed, or disturbed more than 20 calendar days prior to land disturbance.
- (2) Temporary soil stabilization with appropriate vegetation shall be applied on areas that will remain unfinished for more than 30 calendar days.
- (3) Permanent soil stabilization with perennial vegetation or pavement shall be applied as soon as practical after final grading. Irrigation and maintenance of the perennial vegetation shall be provided for 30 calendar days or until the vegetation takes root, whichever is shorter.

c. Structural Controls

- (1) Storm water flowing toward the construction area shall be diverted by using appropriate control measures, as practical.
- (2) Erosion control measures shall be designed according to the size of disturbed or drainage areas to detain runoff and trap sediment.
- (3) Water must be discharged in a manner that the discharge shall not cause or contribute to a violation of the basic water quality criteria as specified in HAR, Chapter 11-54, Section 11-54-4.